



CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY



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LINDA S. ADAMS
SECRETARY FOR
ENVIRONMENTAL PROTECTION

ARNOLD SCHWARZENEGGER
GOVERNOR

Certified Mail: 7003 1680 0000 6174 9408

November 20, 2007

Mr. Dale Foster
Fire Chief
Gilroy City Fire Department
7070 Chestnut Street
Gilroy, California 95020-6610

Dear Mr. Foster:

The California Environmental Protection Agency (Cal/EPA) conducted a program evaluation of Gilroy City Fire Department's Certified Unified Program Agency (CUPA) on October 24, 2007. The evaluation was comprised of an in-office program review. The State evaluator completed a Certified Unified Program Agency Evaluation Summary of Findings with your agency's program management staff, which includes identified deficiencies, with preliminary corrective actions and timeframes, program observations and recommendations, and examples of outstanding program implementation.

The enclosed Evaluation Summary of Findings is now considered final and based upon review, I find that Gilroy City Fire Department's program performance is satisfactory with some improvement needed. To complete the evaluation process, please submit Deficiency Status Reports to Cal/EPA that depict your agencies progress towards correcting the identified deficiencies. Please submit your Deficiency Status Reports to Kareem Taylor every 90 days after the evaluation date. The first deficiency progress report is due on January 24, 2008.

Cal/EPA also noted during this evaluation that Gilroy City Fire Department has worked to bring about a number of local program innovations, including: surveying the regulated community on the CUPA's performance and providing a variety of outreach material for interested parties. We will be sharing these innovations with the larger CUPA community through the Cal/EPA Unified Program web site to help foster a sharing of such ideas statewide.

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Thank you for your continued commitment to the protection of public health and the environment through the implementation of your local Unified Program. If you have any questions or need further assistance, you may contact your evaluation team leader or Jim Bohon, Manager, Cal/EPA Unified Program at (916) 327-5097 or by email at jbohon@calepa.ca.gov.

Sincerely,

[Original signed by Don Johnson]

Don Johnson
Assistant Secretary
California Environmental Protection Agency

Enclosure

cc: Sent via email

Ms. Jacqueline Bretschneider, Fire Marshal
Gilroy City Fire Department
7351 Rosanna Street
Gilroy, California 95020-6197

Mr. Kevin Graves
State Water Resources Control Board
P.O. Box 944212
Sacramento, California 94244-2102

Ms. Terry Brazell
State Water Resources Control Board
P.O. Box 944212
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Mr. Charles McLaughlin
Department of Toxic Substances Control
8800 Cal Center Drive
Sacramento, California 95826-3200

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cc: Ms. Maria Soria
Department of Toxic Substances Control
700 Heinz Avenue, Suite 200
Berkeley, California 94710

Mr. Ben Ho
Office of the State Fire Marshal
P.O. Box 944246
Sacramento, California 94244-2460

Mr. Brian Abeel
Governor's Office of Emergency Services
P.O. Box 419047
Rancho Cordova, California 95741-9047



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CERTIFIED UNIFIED PROGRAM AGENCY EVALUATION SUMMARY OF FINDINGS

CUPA: Gilroy City Fire Department

Evaluation Date: October 24, 2007

EVALUATION TEAM

Cal/EPA: Kareem Taylor

This Evaluation Summary of Findings includes the deficiencies identified during the evaluation, program observations and recommendations, and examples of outstanding program implementation activities. The evaluation findings are preliminary and subject to change upon review by state agency and CUPA management. Questions or comments can be directed to Kareem Taylor at (916) 327-9557.

	<u>Deficiency</u>	<u>Preliminary Corrective Action</u>
1	<p>The CUPA has not submitted their Annual Summary Reports to Cal/EPA by September 30 of each year.</p> <ul style="list-style-type: none">• The fiscal year (FY) 06/07 Annual Summary Reports were received by Cal/EPA on October 24, 2007 during the evaluation.• The FY 05/06 Annual Summary Reports were received by Cal/EPA on March 26, 2007.• The FY 04/05 Annual Summary Reports were received by Cal/EPA on October 17, 2005. <p>The CUPA has a written procedure for submitting Annual Summary Reports; however, the procedure has not been implemented. During the evaluation, the CUPA manager stated that other staff will be delegated the task of completing the Summary Reports at the end of each FY.</p> <p>This deficiency was also noted during the October 2005 evaluation.</p> <p>Title 27, Section 15290 (a) (Cal/EPA)</p>	<p>By September 30, 2008, the CUPA will submit its FY 07/08 Annual Summary Reports to Cal/EPA. The CUPA will submit all subsequent Summary Reports to Cal/EPA by September 30 of each year.</p> <p>The CUPA's plan to assign the completion of the Annual Summary Reports to other staff members is a good start. Along with the next status report, explain who will be responsible for completing specific elements of the Summary Reports.</p>
2	<p>The CUPA has not completed a narrative self audit by September 30 of each year. The narrative self audits for FYs 05/06 and FY 06/07 were completed after September 30 and were received by Cal/EPA during the</p>	<p>By September 30, 2008, the CUPA will submit its FY 07/08 self audit to Cal/EPA. The CUPA will complete all subsequent self audits by September 30</p>

Certified Unified Program Agency (CUPA)
Evaluation Summary of Findings

	<p>evaluation.</p> <p>Note: The self audit guidance questionnaire is only meant as a tool for completing the self audit process and is in no way meant to be a substitute for the narrative self audit requirement.</p> <p>Title 27, Section 15280 (a)(b)(c) (Cal/EPA)</p>	<p>of each year.</p> <p>Per regulation, the CUPA is required to forward requested self audits to the Secretary or state agency responsible for overseeing one or more of the UP elements upon 60 days written notice.</p>
3	<p>The CUPA has not remitted the FY 06/07 Unified Program (UP) surcharges to the state on a quarterly basis. State accounting records show that no FY 06/07 state surcharge monies have been collected from the CUPA.</p> <p>Title 27, Section 15250 (b)(1) (Cal/EPA)</p>	<p>Immediately, submit all FY 06/07 surcharge to the state.</p> <p>By January 24, 2008, the CUPA should submit the surcharge collected for the 1st quarter of FY 07/08 to the state.</p> <p>Along with the next status report, include a copy of the surcharge transmittal report (Report 1) for the 1st quarter of FY 07/08.</p>
4	<p>The CUPA does not review its Inspection and Enforcement plan annually.</p> <p>Title 27, Section 15200 (b) (Cal/EPA)</p>	<p>This deficiency was corrected onsite.</p>
5	<p>The CUPA did not correctly report the amount of surcharge owed to the state on its Annual Single Fee Summary Reports (Report 2) for FYs 04/05 through 06/07. The CUPA subtracted the amount of surcharge collected from the amount of surcharge billed to calculate the amount it owed to the state. Instead, the CUPA should subtract the surcharge remitted to the state from the surcharge collected to obtain the amount of surcharge owed to the state.</p> <p>Title 27, Section 15290 (a) (1) (Cal/EPA)</p>	<p>This deficiency was corrected onsite.</p>
6	<p>The CUPA is not conducting inspections with a frequency that is consistent its Inspection and Enforcement Plan. Specifically, the CUPA is not meeting its scheduled annual inspection frequency for its business plan and hazardous waste generator (HWG) programs. Unforeseen staffing developments have been the cause of the decrease in inspections. The CUPA is meeting the legally mandated inspection frequency for all program elements.</p> <ul style="list-style-type: none"> In FY 06/07, the CUPA routinely inspected 81% 	<p>By July 1, 2008, inspect all business plan and HWG facility annually.</p> <p>On the next status report, explain how the CUPA will adapt to the staffing shortfall.</p>

Certified Unified Program Agency (CUPA)

Evaluation Summary of Findings

	<p>of their HMBP facilities and 79% of their HWG facilities.</p> <ul style="list-style-type: none">• In FY 05/06, the CUPA routinely inspected 84% of their HMBP facilities and 81% of their HWG facilities.• In FY 04/05, the CUPA routinely inspected 90% of their HMBP facilities and 91% of their HWG facilities. <p>Title 27, Section 15200(b)(1) (2) (Cal/EPA)</p>	
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CUPA Representative

Jacqueline Bretschneider
(Print Name)

Original Signed
(Signature)

Evaluation Team Leader

Kareem Taylor
(Print Name)

Original Signed
(Signature)

Certified Unified Program Agency (CUPA)
Evaluation Summary of Findings

PROGRAM OBSERVATIONS AND RECOMMENDATIONS

The observations and recommendations provided in this section simply address those areas not specifically required of the CUPA by regulation or statute and are provided for continuous program improvement only.

1. **Observation:** The CUPA has not submitted deficiency status report documents or requested self audits to Cal/EPA in a timely manner. Many emails, voicemails, and letters have been sent to the CUPA manager requesting these documents, but the CUPA either did not return correspondence or would agree on a time of document submittal and then not submit the documents.

Since the October 2005 evaluation, Cal/EPA has only received 1 status report (received April 2007). Typically, status reports are due every 90 days after the evaluation until all deficiencies are considered corrected. The second status report was received during the October 2007 evaluation.

Recommendation: The CUPA must submit requested deficiency status report documents and self audits to Cal/EPA in a timely manner. The submittal of these documents and return correspondence to Cal/EPA are necessary for the Secretary to effectively oversee the implementation of Gilroy's Unified Program. Submit deficiency status reports every 90 days after the evaluation until all deficiencies are considered corrected.

2. **Observation:** The CUPA plans to send single fee invoices to all of its regulated facilities at the same time annually. This would make the CUPA's fee accountability program and remittance of surcharge to the state more effective.

Recommendation: none

3. **Observation:** The CUPA manager does not perform a random file review to verify that the CUPA inspectors are documenting violation properly. This observation is per the CUPA's response to the violation classification deficiency cited in the October 2005 evaluation.

Recommendation: Cal/EPA recommends that each month the CUPA manager reviews a small random sampling of the CUPA's facility files to verify adequate documentation of violations and correct violation classification.

4. **Observation:** The CUPA's MS Access based data management system (DMS) no longer can received inputted information. An error message appears when staff attempts to enter inspection data. The CUPA now uses the City of Gilroy's "Community Plus" data base to enter inspection data; however, the MS Access DMS is still used for historical data and the creation of invoices.

Recommendation: Either repair the MS Access DMS or use a DMS that incorporates all the CUPA's inspection, enforcement, and billing information. The use of one DMS would be more efficient.

Certified Unified Program Agency (CUPA)
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EXAMPLES OF OUTSTANDING PROGRAM IMPLEMENTATION

1. While the CUPA has not met its scheduled inspection frequency for all program elements, its goal to inspect all facilities annually is considered outstanding. With proper staff management (additions, workload shifts), the CUPA will meet its frequency standard that is above the regulatory mandate for most program elements.
2. The CUPA has performed an AEO against E2C, a consulting company, for failing to notify any regulatory agency of a hazardous materials deposit/release on a property that was in the process of being purchased. The CUPA received \$10,000 from this AEO. The penalty money was used to add a citation and an inspection module to the CUPA's data management system.
3. The CUPA regularly sends surveys to the facilities it regulates. The surveys rate the regulated community's opinion of the CUPA's service. The surveys reviewed showed that many owners/operators thought very highly about the performance of the CUPA.
4. The CUPA staff performs other inspections outside the UP. The CUPA performs waste water/pretreatment, fire code, pesticide, and storm water inspections.
5. The CUPA has many outreach documents/pamphlets available to the regulated community and other interested parties. These include:
 - Community right-to-know guide
 - Hazardous waste requirements
 - Need to get rid of household hazardous waste
 - Fluorescent lamp drop-off locations
 - Hunt for mercury at home
 - Problem pesticides
 - Getting your business licenses
 - Home water use
 - Keeping Gilroy's waterways clean and healthy
 - Curbside battery recycling